

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

JOYCE A. POPWELL,

HON. JEROME B. SIMANDLE

Plaintiff,

Civil No. 11-2161 (JBS/AMD)

v.

ALLSTATE INSURANCE, et al.,

**MEMORANDUM OPINION**

Defendants.

**SIMANDLE**, District Judge:

This matter is before the Court on the motion of Defendant Kenneth N. Lipstein, Esq. to dismiss the Complaint and to strike service of process [Docket Item 5], and the motion by Defendant Allstate Insurance Company to strike service of process [Docket Item 7]. The Court finds as follows:

1. The Complaint in this matter was filed with the Court on April 14, 2011. [Docket Item 1.] On April 20, 2011, the Court entered an order sua sponte dismissing the action for lack of subject matter jurisdiction pursuant to Rule 12(h) (3), Federal Rules of Civil Procedure. [Docket Item 3.]

2. After the Court dismissed the Complaint and terminated the action, Plaintiff served process on Defendants. On May 2, 2011, Plaintiff caused to be served a summons in this matter on Defendant Lipstein. Slimm Cert. Ex. B. On May 3, 2011, Plaintiff caused to be served a summons in this matter on Defendant Allstate Insurance Company. [Docket Item 6.]

3. Defendants argue that, because the Court has held that it lacks subject matter jurisdiction to hear the underlying action, that the after-served summonses should be struck, making clear that Defendants are under no obligation to answer or otherwise respond to the Complaint, which has been dismissed.

4. The Court agrees with Defendants. As the Court has already concluded that it lacks subject matter jurisdiction to adjudicate the matter complained of in Plaintiff's Complaint, the Court similarly lacks subject matter jurisdiction to summon Defendants to answer or respond to such allegations. Therefore the Court will strike the summonses served on Defendants Lipstein and Allstate. As the Court has already dismissed the Complaint, however, the Court will deny Defendant Lipstein's motion to dismiss as moot.

The accompanying Order shall be entered.

November 30, 2011  
Date

s/ Jerome B. Simandle  
JEROME B. SIMANDLE  
United States District Judge